

**DEPARTMENT OF PUBLIC HEALTH
AND HUMAN SERVICES**

Chapter 91

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PROFESSIONAL PERSONS**

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Subchapter 1

General Requirements

37. 91. 101 PROFESSIONAL PERSON CERTIFICATION (1) The purpose of this chapter is to:

(a) adopt a procedure whereby persons may be certified as mental health professional persons as authorized in 53-21-106, MCA;

(b) set forth specific conditions and qualifications which must be met before certification can be obtained; and

(c) set limits of authority and responsibility for persons who have obtained full certification and for persons who have obtained facility certification. (History: Sec. 53-21-106, MCA; IMP, Sec. 53-21-106, MCA; NEW, 1986 MAR p. 260, Eff. 2/28/86; AMD, 1992 MAR p. 1485, Eff. 7/17/92; TRANS, from D0C, 1998 MAR p. 2039.)

37. 91. 102 EXEMPTIONS (1) Medical doctors who are licensed to practice in Montana by the board of medical examiners are designated mental health professional persons by 53-21-102, MCA and are therefore exempt from the provisions of ARM 37.91.106. (History: Sec. 53-21-102 and 53-21-106, MCA; IMP, Sec. 53-21-102 and 53-21-106, MCA; NEW, 1986 MAR p. 260, Eff. 2/28/86; TRANS and AMD, from D0C, 1998 MAR p. 2039, Eff. 7/31/98.)

Rules 03 through 05 reserved

CERTIFICATION OF MENTAL HEALTH
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37. 91. 106

37. 91. 106 DEFINITIONS (1) "Professional person" means a mental health professional person as defined in 53-21-102(10)(b), MCA.

(2) "Full mental health certification" means a level of certification which qualifies the person so certified to act as a mental health professional person in all areas described in Title 53, chapter 21, MCA.

(3) "Facility mental health certification" means a level of certification which qualifies the person so certified to act as a mental health professional person only in the facility for which the person is certified and only with those privileges described in ARM 37. 91. 407.

(4) "Accredited college or university" means a college or university which is accredited by a regional accreditation organization recognized by the Montana board of regents.

(5) "Clinical mental health experience" means work experience evaluating persons for mental illness and providing direct mental health treatment to a caseload which includes persons who are seriously impaired due to mental illness. Such experience must take place in an agency, organization, or unit within an organization in which the primary purpose is the treatment of mental disorders.

(6) "Certification committee" means the committee established to rule on applications for certification. The committee consists of 2 members appointed by the director of the department of corrections, 2 members appointed by the director of the department of public health and human services and a chairman appointed by the governor. At least 1 member of the committee must have full mental health certification.

(7) "Approved training program" means a course of instruction and supervised clinical experience planned and conducted by the employing facility and approved by the department of public health and human services and by the certification committee. An approved training program shall include a minimum of 6 months of full-time clinical experience in the facility and shall include instruction on Montana law; these rules; and facility policies, practices, and procedures as they relate to the privileges described in ARM 37.91.407. An approved training program must be directed by a professional person with full mental health certification who is responsible for its overall implementation and maintenance and for periodic review of each trainee's progress. The clinical experience component of the approved training program must include instruction in, observation of, and supervised participation in all facility procedures involving or requiring the privileges specified in ARM 37.91.407. The trainee's clinical experience must be directly supervised by a professional person with either full or facility mental health certification who will report to the training director on a regular schedule.

(8) "Clinical competency evaluation" means a clinic-based procedure and written instrument for the assessment of an applicant's conceptual understanding of and competency in using the materials and skills presented in the approved training program. A clinical competency evaluation shall be designed and conducted by the facility and must be approved as to form and content by the department of public health and human services and by the certification committee. The clinical competency evaluation must be supervised by a professional person with full mental health certification who will endorse the individual's application for facility mental health certification upon successful performance in the evaluation.

(9) "Facility" means a mental health facility as defined in 53-21-101(7), MCA. (History: Sec. 53-21-106, MCA; IMP, Sec. 53-21-106, MCA; NEW, 1986 MAR p. 260, Eff. 2/28/86; AMD, 1992 MAR p. 1485, Eff. 7/17/92; TRANS, from DOC, 1998 MAR p. 2039.)

Subchapter 2

Certification Procedures

37. 91. 201 APPLICATION PROCESS (1) Application for professional person certification will be made on forms provided by the department of public health and human services.

(2) An applicant for full mental health certification must submit documentation of academic training, documentation of clinical mental health experience, letters of reference testifying to clinical competence, and an endorsement by a professional person with full mental health certification indicating that the applicant fully understands the responsibilities of a professional person. In addition, an applicant for full mental health certification must successfully complete a written examination covering knowledge of Title 53, chapter 21, MCA and the mental health services in the state to include the role of, and treatment services provided at, the Montana state hospital.

(3) An applicant for facility mental health certification must submit documentation of academic training, documentation of successful completion of the employing facility's approved training program, and an endorsement from the professional person with full mental health certification who directly supervised the applicant's clinical competency evaluation.

(4) The certification committee will meet as necessary, but no fewer than 4 times per year, to review applications. Applicants will be notified in writing of the decision of the committee. The certification committee may grant certification, deny certification, grant certification conditioned upon a passing score on the written examination for full mental health certification, or request additional information from the applicant.

(5) The certification committee has the authority to rule on the relevancy, adequacy and appropriateness of the education and experience of applicants as they relate to the requirements contained in ARM 37. 91. 401 and 37. 91. 406.

(6) Any denial of certification may be appealed pursuant to ARM 37. 91. 601. (History: Sec. 53-21-106, MCA; IMP, Sec. 53-21-106, MCA; NEW, 1986 MAR p. 260, Eff. 2/28/86; AMD, 1992 MAR p. 1485, Eff. 7/17/92; TRANS, from DOC, 1998 MAR p. 2039.)

Rules 02 through 04 reserved

37. 91. 205 EXPIRATION AND RENEWAL OF CERTIFICATION

(1) Professional person certification will expire 3 years from the date of certification.

(2) The professional person will be notified at least 30 days prior to the expiration date and will be provided a renewal form to record the information required by the certification committee.

(3) The certification committee will renew full mental health certification upon submission of proof that the individual continues to perform satisfactorily within Montana in direct treatment of mental illness or direct supervision of mental health treatment programs and evidence that continuing education, training, or instruction relevant to the exercise of professional person privileges and duties was received during the current certification period.

(4) The certification committee will renew facility mental health certification upon submission of proof that the individual continues to perform satisfactorily in direct treatment of mental illness in the facility for which the person is certified and evidence from the employing facility that continuing education, training, or instruction relevant to the privileges and duties of a professional person with facility certification was received during the current certification period. (History: Sec. 53-21-106, MCA; IMP, Sec. 53-21-106, MCA; NEW, 1986 MAR p. 260, Eff. 2/28/86; AMD, 1992 MAR p. 1485, Eff. 7/17/92; TRANS, from DOC, 1998 MAR p. 2039.)

Rules 06 through 09 reserved

CERTIFICATION OF MENTAL HEALTH
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37. 91. 210

37. 91. 210 REVOCATION OF CERTIFICATION (1) The certification committee may revoke an individual's certification for any of the following reasons:

- (a) Misrepresentation of professional person authority;
- (b) Exercising professional person authority regarding the treatment of a patient without personal knowledge of the patient and/or situation;
- (c) Conduct in violation of patient rights as cited in Title 53, chapter 21, part 1, MCA.
- (d) Providing an endorsement for an applicant for facility mental health certification without personal knowledge of the applicant's successful performance on the clinical competency evaluation.

(2) The certification committee will investigate any allegations against a professional person which falls into one of the above categories and give the professional person an opportunity to rebut the allegations prior to making a decision regarding revocation of certification. (History: Sec. 53-21-106, MCA; IMP, Sec. 53-21-106, MCA; NEW, 1986 MAR p. 260, Eff. 2/28/86; AMD, 1992 MAR p. 1485, Eff. 7/17/92; TRANS, from DOC, 1998 MAR p. 2039.)

Rules 11 through 19 reserved

CERTIFICATION OF MENTAL HEALTH
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37. 91. 220

37. 91. 220 CONTINUATION OF CERTIFICATION (1) Persons who are certified as a limited mental health professional person as of the date of final adoption of these rules will be granted facility mental health certification for the facility in which they are employed on that date until the expiration date of their present certification or for 1 year, whichever is greater. To continue facility mental health certification thereafter the previously certified individual must meet the requirements of ARM 37. 91. 406. The certification committee may, upon request of the previously certified individual and concurrence of the facility's superintendent or director, waive the requirement of completion of the facility's approved training program. (History: Sec. 53-21-106, MCA; IMP, Sec. 53-21-106, MCA; NEW, 1986 MAR p. 260, Eff. 2/28/86; AMD, 1992 MAR p. 1485, Eff. 7/17/92; TRANS, from DOC, 1998 MAR p. 2039.)

Subchapter 3 reserved

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Subchapter 4

Certification Requirements and Privileges

37. 91. 401 REQUIREMENTS FOR FULL MENTAL HEALTH CERTIFICATION (1) Applicants for full mental health certification must demonstrate successful performance as mental health clinicians, a thorough understanding of the statutory responsibilities of a mental health professional person and knowledge of the full range of mental health services in Montana. In addition, to obtain full mental health certification a person must:

(a) have earned a doctoral degree from an accredited college or university in a field of study which is clearly identified as preparing the student for the clinical treatment of mental illness and have at least 6 months of full-time clinical mental health experience following receipt of the doctoral degree; or

(b) have earned a master's degree in social work from an accredited college or university in a curriculum when included at least 3 courses in therapeutic techniques for treating mental illness and have at least 1 year of full-time clinical mental health experience following receipt of the master's degree; or

(c) have earned a master's degree in clinical or counseling psychology from an accredited college or university and have at least 1 year of full-time clinical mental health experience following receipt of the master's degree; or

(d) have earned a master's degree in psychiatric nursing from an accredited college or university and have at least 1 year of full-time clinical mental health experience following receipt of the master's degree; or

(e) have earned a master's degree in a human services field other than social work, clinical psychology, counseling psychology, or psychiatric nursing from an accredited college or university in a curriculum with a preponderance of course work and practicum experience in a clinical mental health area and have at least 2 years of full-time clinical mental health experience following receipt of the master's degree; or

(f) be a registered nurse with a bachelor's degree in nursing from an accredited college or university and have 5 years of full-time clinical mental health experience following receipt of the bachelor's degree.

(2) Applicants with a master's degree in a field which is relevant to some aspect of treatment of mental illness and who have at least 5 years of full-time clinical mental health experience may be granted full mental health certification based upon a special review by the certification committee of the individual's clinical mental health experience and letters of reference testifying to clinical competence. Such applicants must demonstrate a degree of competence and knowledge which is, in the opinion of the certification committee, equivalent to that of individuals with the training and experience listed above. (History: Sec. 53-21-106, MCA; IMP, Sec. 53-21-106, MCA; NEW, 1986 MAR p. 260, Eff. 2/28/86; AMD, 1992 MAR p. 1485, Eff. 7/17/92; TRANS, from DOC, 1998 MAR p. 2039.)

37.91.402 PRIVILEGES OF FULL MENTAL HEALTH CERTIFICATION

(1) A professional person with full mental health certification is qualified to:

(a) approve applications for voluntary admissions to mental health facilities;

(b) participate as a mental health professional person in involuntary commitments and recommitments to mental health facilities;

(c) concur in the emergency detention of a person believed to be seriously mentally ill;

(d) order the discharge of a patient during, or at the end of, the initial commitment period;

(e) request a court-ordered release to alternative treatment;

(f) request a conditional release from a mental health facility;

(g) request the readmission of a conditionally released patient;

(h) review and initial, within 24 hours, summaries of extraordinary incidents involving patients;

(i) supervise approved training programs and clinical competency evaluations;

(j) perform all the privileges specified in ARM 37.91.407(1).

(2) Mental health facilities may impose stricter standards than those in ARM 37.91.401 when defining staff privileges. (History: Sec. 53-21-106, MCA; IMP, Sec. 53-21-106, MCA; NEW, 1986 MAR p. 260, Eff. 2/28/86; AMD, 1992 MAR p. 1485, Eff. 7/17/92; TRANS, from DOC, 1998 MAR p. 2039.)

Rules 03 through 05 reserved

37. 91. 406 REQUIREMENTS FOR FACILITY MENTAL HEALTH
CERTIFICATION

(1) Applicants for facility mental health certification must be employed by the facility in a position requiring the exercise of the privileges specified in ARM 37.91.407. They must also demonstrate clinical competency and a thorough understanding of the statutory responsibilities of a professional person with facility mental health certification. This can be accomplished only by successful completion of the facility's approved training program and satisfactory performance on the clinical competency evaluation. In addition, a professional person with facility mental health certification must have earned one of the following:

(a) licensure as a registered nurse; or

(b) a bachelor's degree or graduate degree from an accredited college or university in a field which is directly related to some aspect of treatment of mental illness.

(2) For a period of 6 months following the effective date of these rules the certification committee may grant facility mental health certification to any individual who:

(a) has been employed by the facility in a position requiring the exercise of the privileges specified in ARM 37.91.407 for at least 6 months;

(b) has received training and supervision substantially equivalent to the facility's approved training program as evidenced by a letter from the professional person directing the approved training program;

(c) has successfully completed the facility's clinical competency evaluation; and

(d) meets the specified educational requirements for facility mental health certification. (History: Sec. 53-21-106, MCA; IMP, Sec. 53-21-106, MCA; NEW, 1986 MAR p. 260, Eff. 2/28/86; AMD, 1992 MAR p. 1485, Eff. 7/17/92; TRANS, from DOC, 1998 MAR p. 2039.)

37.91.407 PRIVILEGES OF FACILITY MENTAL HEALTH CERTIFICATION (1) A professional person with facility mental health certification is qualified to:

(a) approve and monitor the implementation of treatment plans of inpatients in accordance with the facility's written policies;

(b) authorize restriction of a patient's rights when such restrictions are necessary to achieve treatment goals in accordance with the facility's written policies;

(c) authorize and monitor restraint or seclusion of inpatients in accordance with the facility's written policies;

(d) supervise non-professional staff in accordance with the facility's written policies;

(e) supervise the day-to-day clinical experience of a trainee under the facility's approved training program.

(2) Mental health facilities may impose stricter standards than those in ARM 37.91.406 when defining staff privileges. (History: Sec. 53-21-106, MCA; IMP, Sec. 53-21-106, MCA; NEW, 1986 MAR p. 260, Eff. 2/28/86; AMD, 1992 MAR p. 1485, Eff. 7/17/92; TRANS, from DOC, 1998 MAR p. 2039.)

Subchapter 5 reserved

Subchapter 6

Appeals Process

37. 91. 601 APPEAL PROCESS (1) Any action of the certification committee concerning certification denial or revocation may be appealed to the director of the department of public health and human services. All findings and actions of the director shall be binding on the certification committee.

(2) The notice of appeal shall be directed to the director of the department of public health and human services who may appoint a hearings officer.

(3) The appeal shall be in writing setting forth the nature of the grievance and arguments supporting the grievance and actions desired. The appealing party may also present oral argument before the director or hearings officer.

(4) All parties to the appeal shall be notified in writing 10 days prior to the hearing. The written notice shall contain as a minimum, the date, day, time and location of the hearing.

(5) The guidelines for conducting the hearing shall be established by the director.

(6) Any party to the appeal who is dissatisfied with the written decision of the director may appeal to the appropriate district court. (History: Sec. 53-21-106, MCA; IMP, Sec. 53-21-106, MCA; NEW, 1986 MAR p. 260, Eff. 2/28/86; AMD, 1992 MAR p. 1485, Eff. 7/17/92; TRANS, from DOC, 1998 MAR p. 2039.)